

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

SPERO PANAGOULAKOS,

Plaintiff,

v.

CIV 11-0381 KBM/CG

Albuquerque Police Department Officer,  
PATRICIA YAZZIE, Albuquerque Police Department  
Officer LIEUTENANT RICARDO GALINDO, and  
THE CITY OF ALBUQUERQUE

Defendants.

**ORDER FOLLOWING MANDATE**

On February 18, 2014, the Tenth Circuit Court of Appeals issued its mandate in this case (*Doc. 102*), reversing this Court's prior ruling denying summary judgment to Officer Patricia Yazzie and remanding with instructions to enter summary judgment in her favor on the ground of qualified immunity. Accordingly, Plaintiff's federal claims against Defendant Yazzie must be dismissed with prejudice.

The parties agree that, as a result of the mandate, only Count IV of Plaintiff's Complaint survives. See *Doc. 106*. In Count IV, Plaintiff asserts a claim against the City of Albuquerque for negligent hiring, training, and retention under New Mexico law. *Doc. 1* at 12. More specifically, Plaintiff alleges that his "wrongful arrest and unlawful prolonged detention was proximately caused by the City's negligent hiring, training, and retention of Officers Patricia Yazzie, John Doyle and Lieutenant Ricardo." *Id.* at ¶ 47. The Court has discretion to decline to exercise jurisdiction where, as here, it has dismissed "all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c)(3).

Because it does not appear to be well-settled under New Mexico law whether a plaintiff can state a claim for negligent hiring, training, and retention after summary judgment has been granted on the underlying constitutional claims, the Court concludes that the proper course is to allow a state court to adjudicate this remaining state law claim. Accordingly, Plaintiff's claim for negligent hiring, training, and retention will be dismissed without prejudice.

**IT IS THEREFORE ORDERED** that Defendant Yazzie is entitled to summary judgment on the ground of qualified immunity and all claims against her are dismissed with prejudice.

**IT IS FURTHER ORDERED** that Plaintiff's only remaining claim brought under state law for negligent hiring, training, and retention is dismissed without prejudice.

A handwritten signature in black ink, reading "Karen B. Mohr". The signature is written in a cursive, flowing style. The first name "Karen" is written in a larger, more prominent script, followed by "B." and "Mohr". The signature is positioned above a horizontal line.

UNITED STATES CHIEF MAGISTRATE JUDGE  
Presiding by Consent